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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/224,781 01/04/99 LIBIN

B 1059-007

EXAMINER

HM22/1005

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ROSE, S

ART UNIT

PAPER NUMBER

1614

14

DATE MAILED:

10/05/00

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

# Office Action Summary

Application No.

09/224781

Applicant(s)

LIBIN

Examiner

SHEP

RSE

Group Art Unit

1614

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

## Status

- ☒ Responsive to communication(s) filed on AUG 7 2000
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- ☒ Claim(s) 18C 32 is/are pending in the application.
- Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- ☒ Claim(s) 18C 32 are subject to restriction or election requirement.

## Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- ☐ All ☐ Some\* ☐ None of the CERTIFIED copies of the priority documents have been received.
- ☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.
- ☐ received in this national stage application from the International Bureau (PCT Rule 1.7.2(a)).

\*Certified copies not received: \_\_\_\_\_

## Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_
- ☐ Interview Summary, PTO-413
- ☐ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other \_\_\_\_\_

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The reply filed on August 7, 2000 is not fully responsive to the prior Office action because of the following omission(s) or matter(s): There is no responsive election as required. See 37 CFR 1.111. Since the above-mentioned reply appears to be *bona fide*, applicant is given **ONE (1) MONTH or THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. Extensions of this time period may be granted under 37 CFR 1.136(a).

The claims remaining in this application clearly include:

I. Claims 18-22, drawn to treating herpetic (virus) infections with both (a) Triclosan and (b) a cationic antimicrobial agent.

Claim 19 is drawn to a Markush group of (b) cationic antimicrobial agents.

II. Claims 23, 24, 25 and 27-30 are drawn to treating fungus infections with both: (a) Triclosan and (b) cationic antimicrobial agent.

Claim 27 is drawn to a Markush group of (b) cationic antimicrobial agents.

Claims 20, 28, 31 and 32 (claims 30 and 31 renumbered, Rule 126) are drawn to Triclosan and the acetylpyridinium chloride species of cationic antimicrobial agent.

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Pages 10 and 11 of the March 2, 2000 Office action clearly imposes an election of species requirement.

Applicant was clearly required to elect one species each of:

(a) a cationic antimicrobial agent;

(b) a species of disease selected from one of mucositis, fungus disease infection, or herpetic infection.

While mucositis has been cancelled, there has been no response to the outstanding election of species requirement as imposed.

The terminal disclaimers have been accepted.

There is prior art of record (which should be reviewed), describing fungus infections, or herpes infections, treated with encompassed species of (b) cationic antimicrobial agents, (not necessarily cetylpyridinium chloride), i.e. chlorhexidine, and by Triclosan.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Shep Rose whose telephone number is (703) 308-4609. The examiner can normally be reached on Monday-Thursday from 7:30 A.M. to 6 P.M.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marianne Cintins, can be reached on (703) 308-4725. The fax phone number for this Group is (703) 308-4556.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0196.



Shep Rose  
Senior Primary Examiner  
Art Unit 1614

SKR:cdc  
October 3, 2000

**SHEP K. ROSE  
PRIMARY EXAMINER  
GROUP 1200**